

**FEDERAL COMMUNICATIONS COMMISSION
CHAIRMAN JULIUS GENACHOWSKI
STATEMENT ON PRESERVING INTERNET FREEDOM AND OPENNESS
WASHINGTON, DC
December 21, 2010**

Let me start with a quote. “The Web as we know it [is] being threatened.”

That’s Tim Berners-Lee, the inventor of the World Wide Web, in a recent article. He continued, “A neutral communications medium is the basis of a fair, competitive market economy, of democracy, and of science. Although the Internet and the Web generally thrive on lack of regulation, some basic values have to be legally preserved.”

Today, for the first time, the FCC is adopting rules to preserve basic Internet values. While the Commission had in the past pursued bipartisan enforcement of Open Internet principles, we have not had properly adopted rules.

Now, for the first time, we’ll have enforceable, high-level rules of the road to preserve Internet freedom and openness.

As we stand here now, the freedom and openness of the Internet are unprotected. No rules on the books to protect basic Internet values. No process for monitoring Internet openness as technology and business models evolve. No recourse for innovators, consumers, or speakers harmed by improper practices. And no predictability for Internet service providers, so that they can effectively manage and invest in broadband networks.

That will change once we vote to approve this strong and balanced order.

The vote on this order comes after many months of debate -- which has often produced more heat than light.

Almost everyone says that they agree that the openness of the Internet is essential -- that openness has unleashed an enormous wave of innovation, economic growth, job creation, small business generation, and vibrant free expression.

But despite a shared allegiance to the Internet as an open platform, there has been intense disagreement about the role of government in preserving Internet freedom and openness.

On one end of the spectrum, there are those who say government should do nothing at all on open Internet. On the other end are those who would adopt extensive, detailed and rigid regulations.

Both sides impose tests of ideological purity. To some, unless their test is met, open Internet rules are “fake net neutrality.” To others, unless their test is met, open internet rules are “a government takeover of the Internet.”

For myself, I reject both extremes in favor of a strong and sensible, non-ideological framework – one that protects Internet freedom and openness and promotes robust innovation and investment throughout the broadband ecosystem.

Because none of these goals are abstractions. They live or die not in ideology or theory, but in practice -- in the hard work of grappling with technology, business, and real-world consumer experiences.

Now, in this issue we encounter familiar arguments – we’ve heard some today – the kind trotted out to oppose almost any government action.

We are told by some, for example, not to try to fix what isn’t broken, and that rules of the road protecting Internet freedom would discourage innovation and investment.

But countless innovators, investors and business executives say just the opposite, including many who generally oppose government action.

Over the course of this proceeding we have heard from so many entrepreneurs, engineers, venture capitalists, CEOs and others working daily to invent and distribute new Internet products and thereby maintain U.S. leadership in innovation.

Their message has been clear: the next decade of innovation in this sector is at risk without sensible FCC rules of the road.

As one leading early stage investor put it, in thoughts echoed in a letter we receiving from 30 prominent venture capitalists: “the lack of basic ‘rules of the road’ for what network providers and others can and can’t do is starting to hamper innovation and growth.”

And as we heard in a letter from more than two dozen leading technology CEOs: “Common sense baseline rules are critical to ensuring that the Internet remains a key engine of economic growth, innovation, and global competitiveness.”

The innovators, entrepreneurs, and tech leaders recognize, as I do, the vital need for massive investment in broadband infrastructure.

Based on their in-market experience – they also tell us that broadband providers have natural business incentives to leverage their positions as gatekeepers of the Internet in ways that would stifle innovation and limit the benefits of the Internet.

They point out that, even after the Commission on a bipartisan basis announced open Internet principles in 2005, we have seen clear and troubling deviations from open practices.

Given the importance of an open Internet to our economic future, given the potentially

irreversible nature of some harmful practices, and given the competition issues among broadband providers, it is essential that the FCC fulfill its historic role as a cop on the beat to ensure the vitality of our communications networks and to empower and protect consumers of those networks.

Now at the same time, government must not overreach by imposing rules that are overly restrictive or that assume perfect knowledge about this dynamic and rapidly changing marketplace.

We know that – to meet our broadband speed and deployment goals for the country – broadband providers must have the business incentives to invest many billions of dollars to build out their networks, the ability to run their networks effectively, and the flexibility to experiment with new business models to further drive private investment.

Today, we are adopting a set of high-level rules of the road that strikes the right balance between the imperatives.

We're adopting a framework that will increase certainty for businesses, investors, and entrepreneurs.

In key respects, the interests of edge innovators – the entrepreneurs creating Internet content, services, and applications – broadband providers, and American consumers are aligned.

Innovation at the edge catalyzes consumer demand for broadband. Consumer demand spurs private investment in faster broadband networks. And faster networks spark ever-cooler innovation at the edge.

I believe our action today will foster an ongoing cycle of massive investment, innovation and consumer demand both at the edge and in the core of our broadband networks.

Our action will strengthen the Internet job-creation engine.

Our action will advance our goal of having America's broadband networks be the freest and fastest in the world.

Our action will ensure Internet freedom at home, a necessary foundation to fight for Internet freedom around the world.

The crux of the order we are adopting – which is based on a strong and sound legal framework – is straightforward.

Here are the key principles it enshrines, and the key rules designed to preserve Internet freedom and openness:

First, consumers and innovators have a right to know the basic performance characteristics of their Internet access and how their network is being managed.

The transparency rule we adopt today will give consumers and innovators the clear and simple information they need to make informed choices in choosing networks or designing the next killer app.

Shining a light on network management practices will also have an important deterrent effect on bad conduct.

Second, consumers and innovators have a right to send and receive lawful traffic – to go where they want, say what they want, experiment with ideas – commercial and social, and use the devices of their choice. The rules thus prohibit the blocking of lawful content, apps, services, and the connection of devices to the network.

Third, consumers and innovators have a right to a level playing field. No central authority, public or private, should have the power to pick winners and losers on the Internet; that's the role of the commercial market and the marketplace of ideas.

So we are adopting a ban on unreasonable discrimination. And we are making clear that we are not approving so-called “pay for priority” arrangements involving fast lanes for some companies but not others.

The order states that as a general rule such arrangements won't satisfy the no-unreasonable-discrimination standard – because it simply isn't consistent with an open Internet for broadband providers to skew the marketplace by favoring one idea or application or service over another by selectively prioritizing Internet traffic.

Fourth, the rules recognize that broadband providers need meaningful flexibility to manage their networks to deal with congestion, security, and other issues. And we also recognize the importance and value of business-model experimentation, such as tiered pricing.

These are practical necessities, and will help promote investment in, and expansion of, high-speed broadband networks. So, for example, the order rules make clear that broadband providers can engage in “reasonable network management”.

Fifth, the principle of Internet openness applies to mobile broadband. There is one Internet, and it must remain an open platform, however consumers and innovators access it.

And so today we are adopting, for the first time, broadly applicable rules requiring transparency for mobile broadband providers, and prohibiting them from blocking websites or blocking certain competitive applications.

As I have said for many months, as many innovators and entrepreneurs have told us, and as the facts and record bear out, there are differences between mobile and fixed broadband that are relevant in determining what action government should take for mobile at this time.

Among the differences: unique technical issues involving spectrum and mobile networks, the stage and rate of innovation in mobile broadband; and market structure.

Also, one of the largest mobile broadband providers has just begun providing 4G service using wireless spectrum subject to openness conditions adopted in connection with the auction of that spectrum.

Importantly, our order makes clear that we are not endorsing or approving practices that the order doesn't prohibit, particularly conduct that is barred for fixed broadband.

And we affirm our commitment to an ongoing process to ensure the continued evolution of mobile broadband in a way that's consistent with Internet freedom and openness.

Any reduction in mobile Internet openness would be a cause for concern—as would any reduction in innovation and investment in mobile broadband applications, devices, or networks that depend on Internet openness.

Sixth, and finally, today's order recognizes the importance of vigilance—vigilance in promptly enforcing the rules we are adopting and vigilance in monitoring developments in areas such as mobile and the market for specialized services, which may affect Internet openness.

That's why I'm pleased that we've committed to create an Open Internet Advisory Committee that will assist the Commission in monitoring the state of Internet openness and the effects of our rules.

We're also launching an Open Internet Apps Challenge on challenge.gov that will foster private-sector development of applications to empower consumers with information about their own broadband connections, which will also help protect Internet openness.

The rules of the road we adopt today are rooted in ideas first articulated by Republican Chairmen Michael Powell and Kevin Martin, and endorsed in a unanimous FCC policy statement in 2005.

And they are grounded in the record we have developed over the last 14 months, including more than 100,000 public comments, numerous public workshops, and hundreds of meetings with stakeholders ranging across the spectrum.

I am proud of this process, which has been one of the most transparent in FCC history.

And I am proud of the result, which has already garnered broad support – from the

technology industry, including TechNet, the Information Technology Industry Council, the Internet Innovation Alliance and the hundreds of technology companies those groups represent, as well as many other technology companies; support from investors of all sizes, including some of the nation's preeminent venture capitalists and angel investors.

Our framework has also drawn support from key consumer, labor, and civil rights groups, a list that includes the Consumer Federation of America, Consumers Union, the Center for Democracy and Technology, and the Communications Workers of America. I thank them and the other groups that have worked on this issue.

And our framework has been supported by a number of broadband providers as well, who recognize the sensible balance of our action and the value of bringing a level of certainty to this fraught issue.

Our action today culminates recent efforts to find common ground on this challenging issue – here at the FCC, as well by private parties, and in Congress. I thank each of those who took their time over the last several months to take on these difficult issues, seeking to bridge gaps and find solutions, and who supported us in our efforts.

I want to praise and thank my colleagues Commissioners Copps and Clyburn particularly, for their vision and constancy in pushing this Commission to focus on the interest of consumers. Their work has certainly improved our rules and order.

As Commissioner McDowell and Commissioner Baker pointed out, virtually all of our decisions are bipartisan or unanimous, and I look forward to working together on a series of items to serve the public and grow the economy.

And I can't express enough appreciation to the remarkable staff of the FCC, who have worked so hard – and so well – to wrestle with difficult issues and turn complex ideas into simple rules.

This includes many offices and bureaus at the FCC, including the Office of General Counsel, the Office of Strategic Planning, the Office Engineering and Technology, and the Wireline, Wireless, Media, Consumer, Enforcement, and International Bureaus. Thank you all.

And thank you to all the staff on the 8th floor, and in particular to the extraordinary team I'm lucky to have in the Chairman's office. Eddie Lazarus, Zac Katz, Rick Kaplan, Josh Gottheimer, Jen Howard, Daniel Ornstein, and Maria Gaglio – you've each gone well above and beyond the call of duty. I apologize to your families. But I know they join me in honoring your service.

Thanks to the work of these incredible public servants, today a strengthened FCC is adopting rules to ensure that the Internet remains a powerful platform for innovation and job creation; to empower consumers and entrepreneurs; and protect free expression.

These rules will increase certainty in the marketplace; spur investment both at the edge and in the core of our broadband networks, and contribute to a 21st century job-creation engine in the United States.

Finally, these rules fulfill many promises, including a promise to the future – a promise to the companies that don't yet exist, and the entrepreneurs who haven't yet started work in their dorm rooms or garages.

For all that, I am proud to cast my vote.